

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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BELLA SPIRA and SHULEM SPIRA,

Plaintiffs,

-against-

**BUSINESS OFFICE SYSTEMS &
SOLUTIONS, INC.,**

Defendant.
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**REPORT AND
RECOMMENDATION**

05-CV-622 (ERK)

ROANNE L. MANN, UNITED STATES MAGISTRATE JUDGE:

On September 22, 2005, in an *ex parte* telephone conference with defense counsel Lisa Martinez Wolmart and Dan Becker, a representative of defendant Business Office Systems & Solutions, Inc. (“defendant” or “BOSS”), this Court granted defense counsel’s motion to withdraw, with defendant’s consent; reminded defendant that its Answer to the Amended Complaint was due by October 12, 2005; directed defendant to retain new counsel and have a notice of appearance filed by that same date; and warned defendant that entities are not permitted to represent themselves in federal court and that the failure of a defendant entity to retain counsel constitutes grounds for entry of a default judgment against that entity.¹ See 9/22/05 Calendar Order. Despite that express warning, defendant still has not responded to the Amended Complaint, caused the filing of a notice of appearance, requested an extension of time, or taken

¹ See, e.g., Eagle Associates v. Bank of Montreal, 926 F.2d 1305, 1310 (2d Cir. 1991).

any action in defense of this case. It thus appears that defendant has abandoned its defense of this action.

Accordingly, it is the recommendation of this Court that a default judgment be entered against defendant, for failing to respond to the Amended Complaint, failing to retain counsel, and failing to comply with court orders.

Any objections to the recommendations contained in this Report and Recommendation must be filed with the Honorable Edward R. Korman on or before December 14, 2005. Failure to file objections in a timely manner may waive a right to appeal the District Court order. See 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 6(a), 72; Small v. Secretary of Health & Human Servs., 892 F.2d 15, 16 (2d Cir. 1989).

The Clerk is directed to docket this Report and Recommendation into the ECF system and to send a copy, by Federal Express, to defendant BOSS, c/o Dan Becker, at the following address: 511 W. Ohio State, Suite 401, Midland, Texas 79701.

SO ORDERED.

**Dated: Brooklyn, New York
December 1, 2005**

**ROANNE L. MANN
UNITED STATES MAGISTRATE JUDGE**